

elected a Republican House and a narrowly divided Senate to literally pump the brakes on this radicalism. But there is an old saying in Washington that “personnel is policy.” So while the American people put a stop to reckless legislation last November, President Biden continues to send reckless nominations to the Senate. They want to accomplish through Big Government regulations what the voters have stopped them from doing here in Congress.

This morning, for example, the HELP Committee is hearing from Julie Su, President Biden’s nominee to run the Department of Labor. Ms. Su has a lengthy track record for all—all—the wrong reasons.

Before entering the Biden administration, she presided over a disaster as head of the State labor department out in California. Tens of billions of dollars in fraudulent payments went out the door on her watch. The State auditor found Ms. Su and her department were totally asleep—totally asleep—at the switch on antifraud efforts. Even the Los Angeles Times had to label her performance—listen to this—an “epic failure.”

Our supply chains are already in enough peril, due in part to high-stakes labor negotiations. Think about the negotiations to keep open the ports on the west coast. Think about the ripple effects. Our national economy cannot afford a track record of “epic failure” leading our Department of Labor.

She also supported and helped implement a controversial new California law that essentially—listen to this—declared war on independent contractors and tried to give Big Labor special interests veto power over the entire gig economy. In essence, these far-left Democrats want every ride-share driver, hairdresser, or personal trainer to be reclassified and handled more like a corporate employee, all so that part of their paychecks could be vacuumed up and donated to leftwing political causes.

The same partisan inflexibility has defined Ms. Su’s time here in Washington as Deputy Secretary of Labor on the national level. From the powerful No. 2 job, she helped President Biden try to force that California model into our entire economy, a giant gift for Big Labor bosses at the expense of workers and consumers alike. She also signaled that she wants to help lead the far left’s crusade against the current joint-employer rule, yet another effort to give big-money union bosses even more power to squash innovation and skim money from workers’ paychecks.

What they can’t get through legislation, they fully intend to push forward through regulations. So it is no wonder that an unending parade of small business leaders, independent contractors, and other job creators have written the Senate literally begging us—begging us—to demand a fairer and more mainstream Labor Secretary. Confirming

this nominee would compound the economic pain the Biden administration has already caused.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. THUNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

LEGISLATIVE SESSION

FIRE GRANTS AND SAFETY ACT— Resumed

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to S. 870, which the clerk will report.

The senior assistant legislative clerk read as follows:

A bill (S. 870) to amend the Federal Fire Prevention and Control Act of 1974 to authorize appropriations for the United States Fire Administration and firefighter assistance grant programs.

Pending:

Schumer amendment No. 58, to add an effective date.

NOMINATION OF JULIE A. SU

Mr. THUNE. Mr. President, this morning the Senate Health, Education, Labor, and Pensions Committee is considering the nomination of Julie Su to be Secretary of Labor.

Before joining the U.S. Department of Labor as Deputy Secretary under President Biden, Ms. Su previously served as labor secretary for the State of California, and in that post, she was perhaps most notable for presiding over massive unemployment fraud during the COVID crisis. Unemployment fraud was a significant problem during the pandemic, but even with widespread fraud, California stood out for the scope of its problem.

During the first 6 months of the pandemic, California had an improper payment rate of 36.6 percent. Let that sink in for a moment—an improper payment rate of 36.6 percent. Ultimately, the State paid out around \$30 billion in fraudulent claims between the start of the pandemic and last spring.

Now, certainly, States faced an influx of unemployment claims during the pandemic that put additional pressure on unemployment agencies. But California’s fraud situation was not simply a result of an increased workload during the pandemic. It was also in part the result of Ms. Su’s decision to remove safeguards intended to help prevent fraudulent claims.

During the early days of the pandemic, Ms. Su directed the California

Employment Development Department to—in the words of the California State auditor—“pay certain claimants UI benefits without making key eligibility determinations and to temporarily stop collecting biweekly eligibility certifications.” These directives unquestionably helped smooth the path for widespread unemployment fraud as well as a significant number of improper payments.

It is difficult to know what President Biden was thinking when he decided to nominate someone who presided over massive unemployment fraud to be the next Labor Secretary. If that is what happened when Ms. Su was the labor secretary for a single State, it is difficult to see her as a qualified nominee to head the Labor Department for an entire country.

But my concerns with Ms. Su don’t end there. In addition to questions about her ability to effectively administer a Cabinet Department, I have serious concerns that Ms. Su would use her national platform to continue promoting policies that are hostile to workers.

During her time in California government, Ms. Su was a proponent of Assembly Bill 5, which is a piece of legislation that reclassified many workers who had been considered independent contractors as employees through a set of criteria known as the ABC test.

That test proved to be so unpopular and unworkable that ultimately dozens of occupations were exempted from the measure—so many that the list of exemptions ended up being longer than the text of the original bill. Even California voters recognized how problematic it was, which is why they approved Proposition 22, which specifically designated app-based rideshare and delivery drivers as independent contractors.

Now, people tend to think of Uber or Lyft as the prime example of gig work, but, in actual fact, gig workers and independent contractors make up a sizable percentage of the labor force and are part of a wide range of professions, from hairdressing to truckdriving to insurance adjustment. And a lot of gig workers and independent contractors are big fans of the freedom and independence that independent contracting provides and are not looking to be reclassified as employees.

A 2017 report from the Bureau of Labor Statistics found that a whopping 79 percent of independent contractors preferred their work arrangement to a traditional work arrangement. Less than 10 percent expressed a preference for a traditional job.

The truth is that laws like California’s arise not from a groundswell of gig worker dissatisfaction but from liberals’ commitment to Big Labor, which would like to see the majority of workers forced to pay dues.

Laws like California’s Assembly Bill 5 are supported by unions because they would put more workers in a position where they might end up joining unions, even if gig workers and independent contractors themselves don’t